WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION

Form #2

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: WV Consolidated Public Retirement Board TITLE NUMBER: 162

RULE TYPE: Legislative CITE AUTHORITY: W. Va. Code § 5-10-D-1

AMENDMENT TO AN EXISTING RULE: YES X NO ____

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 4

TITLE OF RULE BEING AMENDED: Teachers' Defined Benefit Plan

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: ____________

TITLE OF RULE BEING PROPOSED: ____________

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON August 2, 2004 AT 5:00 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Joseph J. Jankowski, Executive Director
WV Consolidated Public Retirement Board
State Capitol Complex
Building 5, Room 1000
1900 Kanawha Blvd., East
Charleston, West Virginia 25305

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

State of West Virginia
Consolidated Public Retirement Board
Capitol Complex, Building 5, Room 1000, Charleston, West Virginia 25305-0720
Telephone: 304-558-3570 or 800-654-4406 Fax: 304-558-6337
CPRB@wvretirement.com www.wvretirement.com

BRIEF SUMMARY OF PROPOSED AMENDMENT TO TITLE 162, SERIES 4

The West Virginia Consolidated Public Retirement Board (Board), as administrator of the West Virginia Teachers Retirement System (TRS), proposes certain amendatory changes to the provisions of Title 162, Series 4 of the West Virginia Code of State Regulations. Specifically, the Board proposes an amendment of WVCSR § 162-4-4 to clarify maximum yearly service credit under the Teachers Defined Contribution Retirement System and the Teachers Retirement System. Additionally, the Board proposes an amendment to WVCSR § 162-4-6 to amend an obsolete provision of the rule, as 2004 legislative changes to W. Va. Code § 18-7A-38(b) have trumped this rule provision.

The Board also proposes an amendment to WVCSR § 162-4-9 to provide that a member who terminates employment before attaining age sixty and who is otherwise entitled to a regular annuity payable from the Retirement System at the time of his or her application for a refund is not eligible for a refund of contributions made to the Retirement System, but, in lieu thereof, is entitled to a monthly annuity.

Further, the Board proposes new language to provide staff the opportunity to assess a surcharge to Teachers Retirement System (TRS) participating employers that fail to remit payment of employer and employee contributions in a timely manner. Other non-substantial changes are also proposed.

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STATEMENT OF CIRCUMSTANCES REQUIRING PROPOSAL AND PROMULGATION OF PROPOSED RULE CHANGES TO SERIES 4 OF TITLE 162 OF THE WV CODE OF STATE REGULATIONS

The West Virginia Consolidated Public Retirement Board (Board), as administrator of the West Virginia Teachers Retirement System (TRS), proposes certain amendatory changes to the provisions of Title 162, Series 4 of the West Virginia Code of State Regulations. Specifically, the Board proposes an amendment of WVCSR § 162-4-4 to clarify that under no circumstances shall a member of the Teachers Defined Contribution Retirement System and the Teachers Retirement System receive more than one year of service credit for any one fiscal year. Additionally, the Board proposes an amendment to WVCSR § 162-4-6 to amend a provision of the rule, as 2004 legislative changes to W. Va. Code § 18-7A-38(b) have trumped this rule provision.

The Board also proposes an amendment to WVCSR § 162-4-9 to provide that any member who terminates employment before attaining age sixty and who is otherwise entitled to a regular annuity payable from the Retirement System at the time of his or her application for a refund is not eligible for a refund of contributions made to the Retirement System, but, in lieu thereof, is entitled to a monthly annuity. This rule change has been deemed necessary to close a "loop hole" in the current rule.

Additionally, in an effort to protect the financial integrity of the system, the Board proposes amendatory additions to allow staff the opportunity to assess a surcharge for the untimely submission of monthly contributions and reporting to the retirement system. Currently, there are participating employers who habitually remit the required monthly reporting and contributions after the tenth day following the end of the calendar month. By imposing a surcharge, the Board hopes to prevent loss of interest earnings to the system, as well as deter this behavior. Other non-substantial changes are also proposed.

APPENDIX B
FISCAL NOTE FOR PROPOSED RULES

Rule Title: Title 162 (Series 4) Teachers Defined Benefit Plan

Type of Rule: __X__ Legislative ______ Interpretive _____ Procedural

Agency: The State of West Virginia Consolidated Public Retirement Board

Address: 1900 Kanawha Boulevard, East, Building 5, Room 1000, Capitol Complex

Charleston, West Virginia 25305

1. Effect of Proposed rule:

	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	$0				
PERSONAL SERVICES	$0				
CURRENT EXPENSE	$0				
REPAIRS & ALTERATIONS	$0				
EQUIPMENT	$0				
OTHER	$0				

2. Explanation of Above Estimates:

The rule provides for certain technical modifications and clarifications and does not increase or decrease any benefits currently provided. The rule contains certain modifications necessary to reflect changes provided in new legislation. The rule modifies certain benefit distribution rights. The rule sets forth contribution deposit requirements and penalty for late deposits.

Rule Title: Title 162 (Series 4) Teachers Defined Benefit Plan

3. Objectives of These Rules:

   a. Limits Plan year service credits to one year in case of split service with Teachers' Defined Contribution Plan.
   b. Changes limit on temporary employment to 140 days from 120 days as required under legislation passed in the 2004 session.
   c. Provides certain technical changes and clarifications.
   d. Provides that members eligible for regular retirement are only eligible for retirement benefits and may not elect a cash out of member contributions.
   e. Provides for a 10 day deposit requirement for all contributions. Establishes a late fee assessment of the greater of $50 or the actuarial interest loss for late deposits on a monthly basis.

4. Explanation of Overall Economic Impact of Proposed Rule:

   A. Economic Impact on State Government:

      Allows for the more efficient processing of benefits. Protects the Plan from interest losses due to late deposits by local employers.

   B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

      Protects members from making member contribution cash out election following retirement eligibility, protecting the full retirement benefits. Allows an additional 20 days a year of temporary employment upon rehire from retirement. Requires earlier contribution deposits and sets forth penalties to employers who contribute late. The penalties protect employers who contribute in a timely manner.

   C. Economic Impact on Citizens/Public at Large:

      None.

Date: June 30, 2004

Signature of Agency Head and/or Authorized Representative:

Harry W. Mandel

Harry W. Mandel
Member, American Academy of Actuaries
Board Actuary, WVCPRB

TITLE 162
LEGISLATIVE RULE
CONSOLIDATED PUBLIC RETIREMENT BOARD

SERIES 4
TEACHERS DEFINED BENEFIT PLAN

§162-4-1. General.

1.1. Scope. -- This rule establishes the eligibility for membership in the Teachers Defined Benefit Retirement System.

1.2. Authority. -- W. Va. Code §5-10D-1.

1.3. Filing Date. --

1.4. Effective Date. --

§162-4-2. Definitions.

2.1. Money purchase annuity. - That portion of total monthly benefits from the member's contributions plus state matching plus interest, times the actuarial factor for attained age.

2.2. Disabled. - The inability to do substantially all the material acts necessary in the performance of assigned duties, by reason of physical or mental impairment, in the usual or customary manner for a period of six (6) months beginning with the last day of service.

2.3. Earnable compensation. - Full compensation actually received by members for service as teachers whether or not a part of the compensation is received from other funds, federal or otherwise, than those provided by the state or its political subdivisions. Allowances from employers for maintenance of members shall be considered a part of the earnable compensation of those members whose allowances were approved by the Teachers Retirement Board and contributions to the Teachers Retirement System were made in accordance therewith on or before July 1, 1980.

2.4. Option. - Actuarial method by which a member chooses to have his or her normal monthly benefit calculated and paid.

2.5. Monthly benefit. - The total monthly payment, including a member's money purchase annuity, received by a retiree based upon the option chosen.

2.6. Prior service. - Service performed before the date the member became eligible to make contributions.

2.7. Schools. - All educational units supported by moneys appropriated by the West Virginia Legislature.

2.8. Substitute teacher. - Any teacher who is assigned (1) to fill the temporary absence of any teacher or the unexpired school term made vacant by the resignation, death, suspension or dismissal of any teacher, (2) to fill a teaching position of a regular teacher on leave of absence or (3) to perform instructional services of any teacher who is authorized by law to be absent from class with loss of pay, providing the absence is approved by the Board of Education in accordance with the law. The substitute shall be a duly certified teacher.

§162-4-3. Membership Eligibility.

3.1. Membership eligibility in this system closed as of July 1, 1991.

3.2. Membership ceases:

3.2.1. Upon death of the member;

3.2.2. Upon retirement of the member;

3.2.3. Upon withdrawal by the member;

3.2.4. When the member's service amounts to less than five (5) years in any ten (10) consecutive year period; or

3.2.5. Upon transfer of assets to the West Virginia Teachers Defined Contribution Plan.

3.3. Beneficiary:

3.3.1. Each member may name a refund or surviving beneficiary;

3.3.2. A member may change his or her beneficiary prior to retirement by filing a proper record with the Board;

3.3.3. Beneficiary changes after retirement are subject to the terms of the retirement option chosen.

§162-4-4. Service Credit.

4.1. One year service credit. - A member of the system shall receive one year of service credit for each school term or fiscal year completed. The Board shall determine in each case what part of a year taught constitutes a year of credit.

4.1.1. Summer teaching shall not generate additional service credit when the time taught is included in the year of service credit already granted and the member's salary is subject to regular contributions and inclusion in the member's fiscal year salary.

4.2. Prior service credit. The Board shall grant the member prior service as follows:

4.2.1. Teachers and professional employees as distinguished from nonteachers for service prior to July 1, 1941;

4.2.2. Nonteachers and former teachers for service prior to March 9, 1945;

4.2.3. Financial secretaries and county agents, agriculture extension at West Virginia University except secretaries and clerks, for service prior to March 9, 1945;

4.2.4. School nurses for services prior to June 30, 1945;

4.2.5. Non-teaching employees (except cooks) for service prior to July 1, 1947;

4.2.6. Employees of the board of school finance for service prior to October 1, 1952, if they were formerly employed as a teacher in the public school system;

4.2.7. Employees of the Department of Education, if they are classified as a present teacher, for service rendered prior to November 4, 1958; and

4.2.8. Cooks for service rendered prior to July 1, 1962, or according to the date on which the employer became responsible for the salary of the employee.

4.3. Non-teaching assignment. Any member placed on a special assignment after November 1, 1978, (such as a sabbatical) by an employer is considered regularly employed for the purpose of this Rule. The employer shall collect and remit to the Board the member's contributions to ensure proper credit for a non-teaching assignment.

4.4. Credit for leave time. Any member shall be considered employed as long as the member remains on the payroll of any employer and contributes on salary earned. For purposes of determining service credit, the Board shall count annual or vacation leave or sick leave paid by the employer as service credit.

4.4.1. When computing service credit for annual or personal leave, the last day of service shall be verified as last day paid for leave. The effective date of retirement is the first day of the following month.

4.5. Maximum yearly service credit. Under no circumstances shall a member of the system receive more than one year of service credit for any one fiscal year even though he or she may have reciprocal service with both the Public Employees Retirement System and the Teachers

Retirement System or service with both the Teachers Defined Contribution Retirement System and the Teachers Retirement System, which under the Rules of both systems could conceivably entitle him or her to more than one year service credit.

4.6. Service credit. Fractional part of year. The Board shall give fractional credit for service as a teacher for a teacher who taught parts of school terms and who taught at least half-time throughout the term. The fractional parts may be combined to form one year's credits and all fractions shall be included in the final statement of total credits.

4.6.1. The Board shall give teachers absent from teaching for more than one month in a school year a fractional credit for service that year. The numerator of the fraction shall be the number of months taught and the denominator shall be the number of months, minus one, that the school was open for pupil attendance.

4.7. When service verification records or other legal documents are not available and the Board has contributions credited to the account of a member for that service, the service may be proven by affidavits from two (2) persons with knowledge of the employment; official minutes; education directories or other records showing proof of employment.

4.8. Public employee service. The Board shall grant prior service credit to a member for service in a position which would not be covered by the Public Employees Retirement System if the service was rendered prior to July 1, 1947, and the member never became a member of the Public Employees Retirement System.

4.8.1. In giving credit for service as a public employee, the Board shall consider the service "non-teaching service" as defined in W. Va. Code §18-7A-1 et seq.

4.8.2. A member shall have completed more than three (3) years of contributory service before any service from another department or agency of West Virginia covered by the Public Employees Retirement System may be transferred to the Teachers Defined Benefit Retirement System.

4.8.3. Members transferring service from another department or agency to the West Virginia Teachers Defined Benefit System shall make payments for services performed between July 1, 1947, and the date the member became a contributing member of the Public Employees Retirement System.

4.8.4. When transferring Public Employees Retirement System service which was performed prior to the establishment of the Public Employees Retirement System and for which salaries are not available, the Consolidated Public Retirement Board shall charge contributions equal to the maximum contributions in effect at the time the services were performed.

4.9. Credit for military service.

4.9.1. Pursuant to the provisions of W. Va. Code §18-7A-17(b) service credit with respect to qualified military service shall be provided by the Board in accordance with Section 414(u) of the Internal Revenue Code.

4.9.2. Unless otherwise required by the provisions of W. Va. Code §18-7A-17(b) twenty-eight (28) days in the Armed Services is considered one month of service as a "teacher".

4.9.3. Not more than one year shall be credited for each year of service in the Armed Forces.

4.9.4. Members who are eligible for fractional credit for military service and for actual teaching within the same fiscal year shall receive credit in the following order of preference:

4.9.4.1. Credit for actual teaching; and

4.9.4.2. Prior service credit for military service.

4.9.5. Subject to the provisions of W. Va. Code §18-7A-17(b) military service cannot be duplicated by the Teachers Retirement System when it has been credited by an out-of-state Teachers Retirement System, the Public Employees Retirement System, the West Virginia Public Safety Retirement System or the West Virginia Judges Retirement System.

4.10. Out-of-state service credit. The Board shall grant out-of-state service credit for service performed while in the employment of federal government, or a state or territory of the United States, or a governmental subdivision of that state or territory: Provided, That

4.10.1. The member pays to the system double the amount he or she contributed during the first full year of service performed in West Virginia following the out-of-state service to be purchased, plus interest at a rate to be determined by the Consolidated Public Retirement Board from the date of the first full year of membership to the date of payment times the number of years for which credit is granted; and

4.10.2. Any service that is fully vested, eligible to be fully vested without further service or from which the member is currently receiving benefits is not subject to purchase.

4.11. Retroactive contributions by a surviving spouse. The surviving spouse of a deceased member may elect, within one hundred twenty (120) days following the death of the member, to make retroactive contributions for services rendered under an agency now covered by the Teachers' Retirement System.

4.12. Individual payments. Unless provided for by specific legislation or prohibited by law, payments, other than loans, due the system may be paid in the following manner:

4.12.1. For a member:

4.12.1.1. Payment in full; or

4.12.1.2. By borrowing from the individual's account

4.12.2. For a retiree:

4.12.2.1. Payment in full;

4.12.2.2. Designation, by the Board, of an amount to be deducted from the monthly benefit to be applied to the debt until the debt is deleted; or

4.12.2.3. At death, if a debt balance exists, deduction by the Board of the balance from the final payment, if any, due the beneficiary or estate.

4.13. Conversion of accrued unused sick and annual leave. The Board shall permit conversion of accrued unused sick and annual leave only as follows:

4.13.1. Conversion privilege. The Board shall permit a member, who is a participating employee under the West Virginia Public Employees Insurance Act at the time of retirement, to convert accrued unused sick and annual leave, standing to the credit of that member with the member's last employer, to service credit upon the basis permitted by W. Va. Code §5-16-13(e).

4.13.2. Calculation of conversion. The conversion of accrued unused sick and annual leave shall be based on the average annual length of a member's actual contract status over the entirety of the member's employment history. The calculation shall treat the accrued unused sick and annual leave as having been accrued equally over the entirety of the member's employment history, and shall be calculated as follows:

4.13.2.a. The number of days of actual accrued unused sick and annual leave shall be multiplied by two;

4.13.2.b. The number of months in each contract period shall be added and the sum thereby obtained divided by the number of contract periods to obtain the average monthly length of each year of employment;

4.13.2.c. The result of the calculation obtained in paragraph 4.13.2.b of this subdivision shall be multiplied by twenty to obtain the number of average days for each year of employment;

4.13.2.d. The Board shall subtract twenty from the result of the calculation obtained in paragraph 4.13.2.c of this subdivision to adjust for the provisions of W. Va. Code §18-7A-17; and

4.13.2.e. The result of the calculation obtained in paragraph 4.13.2.a. shall be divided by the result of the calculation obtained in paragraph 4.13.2.d of this subdivision, which quotient shall be the additional service credit in years to which a member is entitled as a result of the conversion.

§162-4-5. Monthly Benefits.

5.1. Monthly benefit options. Members who make contributions to retirement accounts, who qualify for benefits because of age or service, shall select one of the following options, subject to the provisions of W. Va. Code §18-7A-28b:

5.1.1. Option A - Straight Life. Monthly benefits for the lifetime of the member. The member's death terminates this option.

5.1.2. Option B. Monthly benefits for the lifetime of the member: In the event of the member's death before the total benefits received equal the member's accumulated contributions at retirement, the plan shall pay a sum equal to the balance of the contributions to the beneficiary or the estate.

5.1.3. Option C - 100% Joint & Survivor. Monthly benefits payable for the lifetime of the member. If the member dies prior to the beneficiary, the monthly benefit would be continued in the same amount to the beneficiary for the lifetime of the beneficiary.

5.1.4. Option D - 50% Joint & Survivor. Monthly benefits payable for the lifetime of the member. If the member dies prior to the beneficiary, the monthly benefit would be continued for half the amount to the beneficiary for the lifetime of the beneficiary.

5.1.5. Option E - 120 Payments. Monthly benefits payable for the lifetime of the member. If the member dies before having received a total of one hundred twenty (120) payments, the balance of payments continues to the member's named beneficiary, if living; otherwise, the plan shall pay the commuted value of the payments to the member's estate or plan contingent beneficiary.

5.2. Payment of monthly benefit. The Board shall pay all monthly benefits in twelve (12) monthly payments, with fractions of a cent considered a cent.

5.2.1. When an application for retirement has been submitted by a member who has met all the eligibility requirements and who dies before the application is approved by the Consolidated Public Retirement Board, the Board shall process the application as though the applicant were still alive.

5.3. Option chosen final. When the choice of an option has been made, that choice is final and cannot after that date be changed. A beneficiary cannot affect or change the option chosen by the member.

5.4. Change in monthly benefit. A member (active or retired) may submit new information at any time for the Board's consideration. The Board shall change the monthly benefit in accordance with the approved data, the change being effective with the payment for the month within which the Board received the new data.

§162-4-6. Retirement.

6.1. A member's active membership ceases upon retirement and the status of a retired member may only be affected by an action of the Board.

6.1.1. The Board shall, if requested by the retiring member, make those withholdings from the monthly benefit that are necessary to provide for the continuance of the insurance program carried by the member with the West Virginia Public Employees Insurance Agency.

6.1.2. The Board shall, if requested by the retired member or beneficiary or if required by law, make those withholdings from the monthly benefit that are necessary to pay federal withholding taxes.

6.1.3. The Board shall furnish, as required by state and federal law and regulations, those forms and reports related to the retirement annuity necessary for the retired member or beneficiary to comply with the laws and regulations.

6.2. Post retirement employment. Any retirant who accepts employment, other than as a college teacher, for a relatively short period (no more than a one ~~hundred-twenty (120)~~ hundred-forty (140) day contract) who is not considered in any way a permanent or regular employee is considered a temporary, part-time or substitute employee and shall continue to receive his or her normal monthly benefit during the temporary employment. The days may be consecutive. However, if the allowed number of employment days is exceeded, the retirant shall not receive a prior service allowance for each month thereafter during which one or more days are worked, for the balance of that fiscal year.

6.2.1. A college retirant teacher may teach on a non-contract basis less than seven (7) hours of college credits per semester without a loss of benefits. The Board shall discontinue the payment of ~~retirement benefit~~ the prior service allowance to such retirants who teach seven (7) or more college credits hours per semester, with benefits being discontinued on the first day of the month within which employment begins. ~~Benefits~~ Payment of the prior service allowance shall be resumed on the first day of the month succeeding the month within which the employment ceases.

6.2.2. Any employer employing a retired member, on any basis but a day-to-day basis, shall report that employment and conditions of employment to the Board within thirty (30) days of the employment.

6.2.3. For retirants not engaged in substitute teaching, each day a retiree is paid constitutes one day worked regardless of the number of hours or the amount of pay.

6.2.4. This section applies only to employers whose employees are participants in any pension or retirement operated directly or indirectly by the State of West Virginia.

6.2.5. A member who has been retired on the basis of disability is ineligible to return to service in a substitute, full or part time capacity while continuing to receive disability retirement benefits. The Board shall discontinue the payment of disability retirement benefits to retirants who return to service. The Board shall discontinue payment on the first day of the month within which return to service occurs.

§162-4-7. Termination and Withdrawal and Reentry.

7.1. Termination by death. If a member who dies was at least fifty (50) years of age and had twenty-five (25) years of service credit, the surviving spouse shall receive an annuity based on Option C, if the surviving spouse is designated as the member's sole-primary beneficiary.

7.1.1. In the event the member's spouse does not qualify for an annuitized benefit at the death of the member under W. Va. Code §18-7A-23(c)(1), the beneficiary shall receive the sum of accumulated contributions with refund interest (as established by W. Va. Code §18-7A-23) up to, but not including, the date of the member's last contribution plus the amount of accumulated contributions from the employer's accumulation fund.

7.2. Withdrawal prior to retirement. The plan shall pay any member who terminates service, upon ~~request~~ written application, his or her accumulated contributions~~, less applicable~~

~~supplemental fees plus interest up to, but not including, the date of his or her last contribution~~.

7.2.1. A member who has five (5) years of West Virginia service may elect to receive a retirement annuity at age sixty (60). The member shall notify the Board in writing of the election. In the event no election is made, the plan shall make a refund under Subdivision 7.1.1 of this Subsection.

§162-4-8. Loan Repayment.

8.1. In order to comply with the provisions of section 72(p) of the Internal Revenue Code of 1986 as required by W. Va. Code §18-7A-34, upon the retirement of a member, including retirement for disability or withdrawal prior to retirement, any unpaid loan balance including any ~~accrued~~ compounded interest due shall be repaid in full by the member, or if the member does not repay all or any part of the amount due, the amount shall be deducted in a lump sum from the member's refund of accumulated contributions or shall be repaid in a lump sum through the reduction of the member's monthly benefit. The reduction of the member's monthly benefit shall be determined by deducting from the actuarial reserve for the accrued benefit the amount of the unpaid loan balance including any ~~accrued~~ compounded interest due and then converting the remainder of the reserve to a monthly benefit payable in the form elected by the member.

8.1.1. If a member's refund of accumulated contributions or the actuarial reserve for the accrued benefit, whichever is applicable, is not sufficient to repay the unpaid loan balance in full including any ~~accrued~~ compounded interest, the member is responsible to pay the amount necessary to fully repay the amount due.

8.1.2. If a member dies prior to repayment of any unpaid loan balance including any ~~accrued~~ compounded interest due, the loan amount due shall be deducted in a lump sum from either the refund benefit payable to the refund beneficiary or the annuity or death benefit otherwise payable to the survivor beneficiary, whichever is applicable. The reduction of a survivor beneficiary's monthly benefit shall be determined by deducting from the actuarial reserve for such benefit the amount of the unpaid loan balance including any ~~accrued~~ compounded interest due and then converting the remainder of the reserve to a monthly benefit payable in the applicable form.

8.1.3. Any term used in this section shall have the same meaning as when used in a comparable context in the laws of the United States, unless a different meaning is clearly required.

§162-4-9. Refunds of Contributions Where an Annuity May Be Payable.

9.1. Any member of the Retirement System who terminates employment after attaining age sixty (60) and who has five (5) or more years credited service and is otherwise entitled to an annuity payable from the Retirement System, is not eligible for a refund of contributions made to the Retirement System, but, in lieu thereof, is entitled to a monthly annuity payable pursuant to W. Va. Code §18-7A-25. ~~However, a~~ Any member of the Retirement System who terminates employment before attaining age sixty (60) and who is otherwise entitled to a regular annuity payable from the Retirement System at the time of his or her application for a refund, is not eligible for a refund of contributions made to the Retirement System, but, in lieu thereof, is entitled to a monthly annuity payable pursuant to W. Va. Code §18-7A-25. However, any member of the Retirement System who terminates employment before attaining age sixty (60) and who is not immediately entitled to a regular annuity payable from the Retirement System, even though he or she may be entitled to deferred benefits, shall be entitled to a refund of contributions upon written application filed with the Retirement System.

§162-4-10. Surcharge for Delinquency of Employer and Employee Contributions.

Any participating public employer who fails to make any payment due the Retirement System by the tenth (10th) day following the end of each calendar month wherein the contributions are due may be required to pay the actuarial rate of interest lost on the total employee and employer contributions owed for each month the payment is delinquent, with a minimum surcharge of fifty (50) dollars per month.